

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

In re Application of Atty. Docket  
EDWIN A. MONTIE ET AL. PHNL 000307  
Serial No.: 09/866,439 Group Art Unit: 2616  
Filed: May 25, 2001 Examiner: H. Shibru  
METHOD OF AND APPARATUS FOR ALLOCATING RECORDING SPACE ON A  
RECORDING MEDIUM

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

APPEAL BRIEF

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(i)        Real Party in Interest

The real party in interest in this application is KONINKLIJKE PHILIPS ELECTRONICS N.V. by virtue of an assignment from the inventors recorded on August 13, 2001, at Reel 012088, Frames 0503.

(ii) Related Appeals and Interferences

There are no other appeals and/or interferences related to this application.

(iii) Status of Claims

Claims 1-19 stand finally rejected by the Examiner. Appellants are appealing the rejections of claims 1-19.

(iv)        Status of Amendments

There was one Response filed on August 23, 2006, after final rejection of the claims on July 3, 2006, this Response having been considered by the Examiner.

(v) Summary Of Claimed Subject Matter

The present invention relates to a method of and apparatus for allocating recording space on a recording medium for recording an entry of predetermined length, the recording medium having a directory associated with it, this directory listing blocks specifying free space and previously recorded entries, the method comprising the steps of receiving a start position on the recording medium, determining, with the aid of the directory, the consecutive blocks necessary for recording at least the entry of predetermined length, starting from the start position, and displaying the directory.

In particular, the subject invention, as claimed in claim 1, concerns a method of allocating recording space on a recording medium for recording an entry of predetermined length, the recording medium having an associated directory listing blocks specifying free space and previously recorded entries. An example of the directory 30 is shown in Fig. 3a, and described in the Substitute Specification on page 9, line 24 to page 10, line 2.

As claimed in claim 1, the invention includes "receiving a start position on the recording medium". This is shown in Fig. 2 and described in the Substitute Specification on page 10, lines 3-9, in which in step 21, the start position on the video tape is received.

The invention, as claimed in claim 1, further includes "displaying the directory". This is shown in Figs. 2 and 3a, and

described in the Substitute Specification on page 10, lines 14-15, in which in a step 23, the directory 30 is displayed to the user.

Furthermore, as claimed in claim 1, the subject invention includes "determining, with the aid of the displayed directory, consecutive blocks of said listed blocks necessary for recording at least the entry of predetermined length, starting from the start position". This is shown in Figs. 2 and 3a, and described in the Substitute Specification on page 10, lines 10-13, in which in block 22, the consecutive blocks needed for the program to be recorded are determined.

Finally, the subject invention includes "indicating the determined consecutive blocks necessary for recording at least the entry of predetermined length in the displayed directory". This is shown in Figs. 2 and 3a and described in the Substitute Specification on page 10, lines 15-20, in which the consecutive blocks in the directory 30, which are needed for recording the new program, are indicated in the directory 30 in a step 24.

The subject invention further includes, as claimed in claim 10, a module for allocating recording space on a recording medium for recording an entry of predetermined length. In particular, as claimed in claim 10, the subject invention includes "memory means for storing a directory associated with the recording medium". This is shown in Fig. 1 and described in the Substitute Specification on page 8, lines 17-19, in which memory means 13 stores data regarding the directory 30 of the video tape.

The invention, as claimed in claim 10, further includes "means for displaying said directory, said displayed directory listing blocks specifying free space and previously recorded entries". This is shown in Figs. 1 and 3a, and described in the Substitute Specification, in which, on page 9, line 24 to page 10, line 2, the directory 30 is described as comprising entries about the tape, which may be blocks of free space or previously recorded programs, and on page 9, lines 3-7, the means for displaying is described as processing means 14 displaying the directory 30 using conventional recording/display means 17 and the TV set 11.

As claimed in claim 10, the subject invention also includes "processing means connected to the memory means for receiving a start position on the recording medium, and for determining consecutive blocks of the listed blocks necessary for recording at least the entry of predetermined length, starting from the start position". This is shown in Fig. 1 and described in the Substitute Specification on page 8, line 21 to page 9, line 3, in which the processing means receives the start position and determines the consecutive blocks.

Finally, the invention includes, as claimed in claim 10, "the processing means indicates the determined consecutive blocks necessary for recording at least the entry of predetermined length in the displayed directory". This is shown in Fig. 3a and described in the Substitute Specification on page 9, lines 3-7. In addition, the Substitute Specification, on page 11, line 25 to page 12, line

2, describes how, in the directory 30 shown in Fig. 3a, the consecutive blocks are indicated therein.

(vi) Grounds of Rejection to be Reviewed on Appeal

- (A) Whether the invention, as claimed in claims 1-19, is anticipated, under 35 U.S.C. 102(b), by U.S. Patent 5,107,481 to Miki.
- (B) Whether the invention, as claimed in claims 1 and 10 is anticipated, under 35 U.S.C. 102(b), by European Patent Application No. EP0932159A2 to Suzuki et al.

(vii) Arguments

(A) The 35 U.S.C. 102(e) Rejection of Claims 1-19

The Miki et al. patent discloses a recording area management system for writable type optical disks.

As indicated in MPEP § 2131, it is well-founded that "A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). Further, "The identical invention must be shown in as complete detail as is contained in the ... claim." *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989).

The Examiner has indicated:

"Miki discloses a method of allocating recording space on a recording medium (see optical disk (102) in fig. 1 and col. 4, lines 47-50) for recording an entry of predetermined length, the recording medium having an associated displayed directory listing blocks specifying free space and previously recorded entries",

"determining with the aid of the displayed directory, consecutive blocks of said listed blocks necessary for recording at least the entry of predetermined length, starting from the start position (see col. 5 lines 11-64 and fig. 2)",

"displaying the directory (see col. 4 line 65-col. 5, line 5)",

and

"indicating the determined consecutive blocks necessary for recording at least the entry of predetermined length in the displayed directory (see col. 5 line 25-col. 7 line 44)".

Appellants submit that the Examiner is mistaken. In particular, while the Examiner has assumed that Miki et al. discloses displaying a directory, in fact, there is no disclosure of such in Miki et al. In fact, the term "display" does not even occur in Miki et al. Further, the section of Miki et al. which the Examiner indicates as disclosing "displaying the directory" actually states:

"Reference numeral 111 denotes area managing means for managing the management information 102 in the optical disk 101. In general, if the management information 102 is read out of the optical disk 101 each time it is referred to, the processing speed decreases. Therefore, in many cases, the management information 102 is buffered into a high speed storage medium such as a memory or the like and is referred to therein."

It should be apparent from the above that Miki et al. neither discloses nor suggests displaying anything, much less a directory.

In response thereto, the Examiner now states:

"Miki discloses the management information in Fig. 1 is read out (see col. 4 line 51 -col. 5 line 24). Miki further discloses an algorithm for selecting the recording position. Miki further discloses the optimum erased area is selected from the erased area management information. Miki further discloses the overwriting and verification for the recording area are instructed to the optical disc control section (see col. 5 lines 35-63)."

It appears that the Examiner is equating "the management information is read out" with "displaying the directory".

The subject invention seeks to enable a user to be "in a better position to intuitively determine the best possible solution for allocating recording space for a new entry, taking into account the other previously recorded entries on the recording medium and their relative importance to the user" (Substitute Specification,

page 5, lines 15-18). In order for a user to be able to interact with an electronic system, there must be a rendering of information, either audibly or visually. The subject invention enables this interaction through visually displaying various information, and in particular, "displaying the directory" and "indicating the determined consecutive blocks necessary for recording at least the entry of predetermined length in the displayed directory".

Miki et al. specifically states "In general, if the management information 102 is read out of the optical disk 101 each time it is referred to, the processing speed decreases. Therefore, in many cases, the management information 102 is buffered into a high speed storage medium such as a memory or the like and is referred to therein." This "read out" of the management information 102 is being performed by the optical disk control means 107 as shown in Fig. 1 thereof. It should be noted that the term "read out" means the reading of information on the optical disk.

Appellants submit that reading out of information on an optical disk does not enable user interaction. Rather, this read out of information allows the system of Miki et al. to interact with the optical disk.

Appellants therefore submit that Miki et al. neither discloses nor suggests "displaying the directory" and "indicating the determined consecutive blocks necessary for recording at least the entry of predetermined length in the displayed directory".

(B) The 35 U.S.C. 102(b) Rejection Of Claims 1 and 10

The Suzuki et al. patent discloses an information recording apparatus which, during the recording of an information signal onto a recording medium, allows the user to display a directory of previously recorded programs and enables highlighting of a selected program.

The Examiner has indicated that Suzuki et al. discloses each of the claim 1 limitations, and, in particular, "indicating the determined consecutive blocks necessary for recording at least the entry of predetermined length in the displayed directory (see fig. 2 and 4, claims 1 and 6, and paragraph 0070-0072.)"

Appellants submit that the Examiner is mistaken. In particular, the only portion of Suzuki et al. dealing with displaying information is paragraphs [0070]-[0074]. This portion of Suzuki et al. merely relates to the selective highlighting of a previously recorded program in a directory of previously recorded programs ("a program list or table of the programs, which had been recorded in advance other than the record signal Sr which has been just recorded...is displayed as the display information signal S4 on an external monitor", col. 12, lines 21-27) in order for that program to be erased. After the process of erasing the undesired program is completed, "the operation of displaying the program list on the monitor is canceled" (col. 13, lines 20-22).

Appellants submit that Suzuki et al. neither discloses nor suggests "determining, with the aid of the displayed directory, consecutive blocks of said listed blocks necessary for recording at

least the entry of predetermined length, starting from the start position" or "indicating the determined consecutive blocks necessary for recording at least the entry of predetermined length in the displayed directory", as specifically claimed in claim 1.

In response thereto, the Examiner now states:

"Suzuki discloses erasable information is specified among the information groups which are identified by the outputted identification information while recording device is newly recording the record information. Suzuki further discloses a controlling device for controlling recording device to newly record the record information to a recordable area (see claim 1 and col. 11, lines 8-56)."

Appellants submit that this is irrelevant to the claimed invention. In particular, Suzuki et al. neither discloses nor suggests "displaying the directory", "determining, with the aid of the displayed directory, consecutive blocks of said listed blocks necessary for recording at least the entry of predetermined length, starting from the start position" or "indicating the determined consecutive blocks necessary for recording at least the entry of predetermined length in the displayed directory", as specifically claimed in claim 1.

Based on the above arguments, Appellants believe that the subject invention is not rendered obvious by the prior art and is patentable thereover. Therefore, Appellants respectfully request that this Board reverse the decisions of the Examiner and allow this application to pass on to issue.

Respectfully submitted,

by /Edward W. Goodman/  
Edward W. Goodman, Reg. 28,613  
Attorney

(viii) Claims Appendix

1. (Previously Presented) A method of allocating recording space on a recording medium for recording an entry of predetermined length, the recording medium having an associated directory listing blocks specifying free space and previously recorded entries, the  
5 method comprising the steps:

receiving a start position on the recording medium;

displaying the directory; and

determining, with the aid of the displayed directory, consecutive blocks of said listed blocks necessary for recording at  
10 least the entry of predetermined length, starting from the start position,

characterized in that the method further comprises the step:

indicating the determined consecutive blocks necessary for recording at least the entry of predetermined length in the  
15 displayed directory.

2. (Previously Presented) The method as claimed in claim 1, in which the start position is determined by a search algorithm.

3. (Previously Presented) The method as claimed in claim 1, in which the start position is determined in that start position input is received from a user.

4. (Previously Presented) The method as claimed in claim 1, in which the displayed directory is displayed in a text-only format.

5. (Previously Presented) The method as claimed in claim 1, in which the determined consecutive blocks are displayed so as to be discernable from the rest of the displayed directory.

6. (Previously Presented) The method as claimed in claim 5, in which the determined consecutive blocks are indicated by displaying a frame around the determined consecutive blocks, highlighting or underlining the determined consecutive blocks, or by a color, font, 5 character size or typography different from the other directory blocks.

7. (Previously Presented) The method as claimed in claim 1, in which the predetermined length corresponds to an amount of recording time.

8. (Previously Presented) The method as claimed in claim 1, in which the predetermined length corresponds to an amount of data.

9. (Previously Presented) The method as claimed in claim 1, in which the method further comprises the steps:

5 calculating the difference between an overall length of the determined consecutive blocks and the predetermined length; and displaying the difference.

10. (Previously Presented) A module for allocating recording space on a recording medium for recording an entry of predetermined length, the module comprising:

memory means for storing a directory associated with the  
5 recording medium;

means for displaying said directory, said displayed directory listing blocks specifying free space and previously recorded entries; and

processing means connected to the memory means for  
10 receiving a start position on the recording medium, and for determining consecutive blocks of the listed blocks necessary for recording at least the entry of predetermined length, starting from the start position,  
characterized in that the processing means indicates the determined  
15 consecutive blocks necessary for recording at least the entry of predetermined length in the displayed directory.

11. (Previously Presented) The module as claimed in claim 10, in which the processing means determines the start position by a search algorithm.

12. (Previously Presented) The module as claimed in claim 10, in which the processing means receives the start position input from a user.

13. (Previously Presented) The module as claimed in claim 10, in which the processing means displays the directory in a text-only format.

14. (Previously Presented) The module as claimed in claim 10, in which the processing means displays the determined consecutive blocks so as to be discernable from the rest of the displayed directory.

15. (Previously Presented) The module as claimed in claim 14, in which the processing means further indicates the determined consecutive blocks by displaying a frame around the determined consecutive blocks, highlighting or underlining the determined consecutive blocks, or by a color, font, character size or

5 typography different from the other directory blocks.

16. (Previously Presented) The module as claimed in claim 10, in which the processing means further calculates a difference between an overall length of the determined consecutive blocks and the predetermined length, and to display the difference.

17. (Previously Presented) A video recorder system including the module as claimed in claim 10.

18. (Previously Presented) A computer program product comprising data and instructions to be loaded into a computer, thereby

enabling the computer to carry out the method as claimed in claim 1.

19. (Previously Presented) A data carrier provided with the computer program product as claimed in claim 18.

(ix)        Evidence Appendix

There is no evidence which had been submitted under 37 C.F.R. 1.130, 1.131 or 1.132, or any other evidence entered by the Examiner and relied upon by Appellant in this Appeal.

(x)        Related Proceedings Appendix

Since there were no proceedings identified in section (ii) herein, there are no decisions rendered by a court or the Board in any proceeding identified pursuant to paragraph (c)(1)(ii) of 37 C.F.R. 41.37.